

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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EPHRAIM WEISSMANDL, RIVKA  
WEISSMANDL AND CHAMPION DC,  
INC.,

**SUPPORTING  
AFFIDAVIT**

Plaintiffs,

-against-

THE COUNTY OF ROCKLAND, THE COUNTY  
OF ROCKLAND HEALTH DEPARTMENT,  
EDWIN J. DAY, as Rockland County Executive,  
PATRICIA S. RUPPERT, DO, MHP, CEP, DAMFM,  
FAA, as Commissioner, JOHN G. STOUGHTON,  
as Senior Public Health Sanitarian and “JOHN DOES  
AND JANE DOES 1-10”,

**Civ. No. 18 cv. 6743 (VJB)**

**ECF CASE**

Defendants.

-----X

STATE OF NEW YORK      )  
                            )  
                            ss.:  
COUNTY OF ROCKLAND    )

MARY E. BRADY MARZOLLA, being duly sworn, deposes and says:

1. Your deponent is an attorney at law duly licensed to practice before the United States District Court for the Southern District of New York and a member of Feerick Nugent MacCartney PLLC f/k/a Feerick Lynch MacCartney & Nugent PLLC (“Law Firm”).

2. This Affidavit is made in support of the application for an Order pursuant to Local Rule 1.4 discharging our Law Firm as counsel of record for Plaintiffs, Ephraim Wessmandl, Rivka Wessmandl, and Champion DC, Inc., based upon Plaintiffs’ lack of communication and cooperation with counsel and Plaintiffs having continuously and deliberately disregarded their obligation to their attorneys as to expenses and fees past due and owing.

3. This Affidavit is made upon personal knowledge together with the file and/or documentary evidence in the possession of your deponent and our Law Firm.

4. On July 27, 2018, this action was commenced via filing of a summons and complaint; a copy of which is annexed hereto as Exhibit "A".

5. After an answer was interposed by the Defendants, a civil case discovery plan and scheduling order was entered on November 16, 2018.

6. Pursuant to that scheduling order, the parties served their respective discovery demands on or about December 14, 2018; a copy of Plaintiff's demands only and cover letter serving same are annexed hereto as Exhibit "B".

7. At all relevant times stated herein, the primary attorney handling the file for the Plaintiffs at our Law Firm, Dennis Lynch, Esq., was the only attorney in our office who had communicated with the Plaintiffs. Mr. Lynch has since left our Law Firm.

8. After Mr. Lynch's departure, your deponent has contacted the Plaintiffs on multiple occasions over a period of weeks by telephone, e-mail, and regular mail advising of Mr. Lynch's departure from our Law Firm and requesting that they contact your deponent and your deponent's Law Firm regarding this matter. Your deponent did so using the same telephone numbers, emails and addresses used by Mr. Lynch to communicate with Plaintiffs prior to his departure.

9. Since Mr. Lynch's departure from our Law Firm, Plaintiffs have not returned a phone call, email or letter to your deponent or your deponent's Law Firm. Simply stated, despite numerous efforts to resolve all issues in this matter with Plaintiffs, including compliance with the Court's directives herein and long outstanding invoices, we have been unable to do so. Due to

the attorney-client privilege, your deponent will not disclose in detail these efforts unless Plaintiffs wish to waive that privilege.

10. Your deponent informed the Court herein by correspondence dated January 3, 2019 and requested a short adjournment in order to resolve the aforementioned issues with the Plaintiff or, if same could not be resolved, move to be withdrawn as counsel; a true and correct copy of which is annexed hereto as Exhibit "C". Opposing counsel kindly consented to the requested adjournment.

11. On January 4, 2019, this Court granted our Law Firm's application. (See, Exhibit "C").

12. In accordance with the Court's Order, your deponent's Law Firm now moves for to withdraw as counsel for Plaintiffs based upon lack of cooperation and communication which renders us unable to represent the clients in a manner that would permit them to meaningfully participate in this litigation and the clients' long outstanding invoices in a sum of \$11,070.

13. As to that overdue sum, although the retainer agreement provides an affirmative obligation for the client to review the bill, there have been no challenges submitted or expressed to this Firm. Yet, the Plaintiffs have failed and refused to pay said bills despite repeated requests to do so.

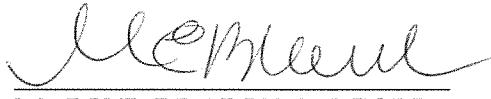
14. There would be no prejudice to Plaintiffs in having the Law Firm withdraw at this early stage in the litigation. No responses, depositions or substantive motion practice has been served or conducted at this early stage in this litigation.

15. In order to prevent prejudice to Plaintiffs, your deponent requests a stay of all proceedings herein pending the Court's determination of this application, together with an Order continuing the stay of all proceedings in this action for thirty (30) days after the Court's decision

to permit Plaintiffs to obtain substitute counsel should they desire same. Thus, as adequate time will be allowed for Plaintiffs to retain new counsel to meaningfully participate in the litigation as only written discovery demands have been served to date.

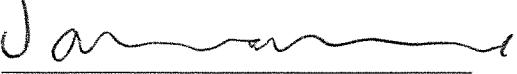
16. Therefore, your deponent respectfully request's that this Court enter an Order permitting your deponent's Law Firm to be relieved and discharged as counsel of record for Plaintiffs, and directing this office forward a copy of that Order of discharge to opt-in Plaintiffs, and further indicating that Plaintiffs have thirty (30) days to appoint new counsel or proceed pro se in this matter.

WHEREFORE, your deponent specifically asks for an Order pursuant to Local Rule 1.4 granting the Order discharging Feerick Nugent & MacCartney PLLC, f/k/a Feerick Lynch MacCartney & Nugent PLLC counsel as counsel of record for Plaintiffs, Ephraim Wessmandl, Rivka Wessmandl, and Champion DC, Inc., and granting such other, further, and different relief, as the Court may deem just and proper.



MARY E. BRADY MARZOLLA  
(MB 1077)

Sworn to before me on the  
18<sup>th</sup> day of January, 2019



Notary Public

VALERIE A. DRUMMOND  
NOTARY PUBLIC, STATE OF NEW YORK  
ID No. 01DR6125881  
QUALIFIED IN ROCKLAND COUNTY  
MY COMMISSION EXPIRES 04/25/2009